

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	UT-Battelle Development Corporation)	Roane County
	Property ID: 031 001.01)	
)	
	Tax Year 2014)	Appeal No. 99259

ORDER FINDING JURISDICTION

On October 1, 2014, the taxpayer filed a direct appeal of the tax year 2014 assessment to the State Board of Equalization ("State Board"). The taxpayer did not appeal to the Roane County Board of Equalization ("County Board"). The undersigned administrative judge conducted a jurisdictional hearing on August 4, 2015 in Kingston.¹ Taxpayer counsel Wayne Kramer, Esq. and Nichole Porter, Esq.; taxpayer principals Jeff Ault and Jimmy Stone; Roane County Attorney Greg Leffew, Esq.; Roane County Property Assessor David Morgan; and Roane County Trustee Wilma Eblen participated.

The August 4, 2015 hearing was confined to the sole issue of whether the appeal should be dismissed due to the taxpayer's failure to follow the statutory appeal procedures for an appeal to the State Board. Normally, an appeal to the local board of equalization is a jurisdictional prerequisite to a State Board appeal.² However, if a taxpayer can establish "reasonable cause" for the failure to timely appeal to the local board, the State Board may accept a direct appeal filed up to March 1 of the year subsequent to the year in which the time for appeal began to run.³

¹ The parties filed post-hearing briefs on August 28, 2015.

² Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b).

³ Tenn. Code Ann. § 67-5-1412(e).

“Reasonable cause” is generally understood to mean “illness or other circumstances beyond the taxpayer’s control.”⁴

Under the standard procedure for the taxpayer and the taxpayer’s landlord, the taxpayer’s landlord would directly receive the *ad valorem* tax correspondence regarding the subject, including assessment change notices and tax bills. Upon receipt of the tax bill, the taxpayer’s landlord would typically send a request to the taxpayer to make payment. In this case, the tax year 2014 assessment change notice was timely issued and mailed to the taxpayer’s South Carolina-based landlord prior to May 19, 2014. But for whatever reason, the assessment change notice was not forwarded by the taxpayer’s landlord to the taxpayer’s locally-based principals until August 26, 2014.

It is a taxpayer’s duty to promptly notify the assessor’s office of a desired change of address.⁵ The taxpayer was aware that the *ad valorem* tax correspondence regarding the subject had been routinely sent to the taxpayer’s landlord for several years prior to tax year 2014. Neither the taxpayer nor the taxpayer’s landlord attempted to change the mailing address for *ad valorem* tax correspondence regarding the subject prior to the adjournment of the County Board for tax year 2014. With respect to the transmission and formal adequacy of the assessment change notice, the administrative judge finds that the assessor timely and properly issued the assessment change notice to the taxpayer’s landlord. And since the taxpayer and the taxpayer’s landlord’s process tended to promote non-participation - or at the very least, potential to miss

⁴ *Associated Pipeline Contractors, Inc.* (Final Decision & Order, Williamson County, Tax Year 1992, decided August 11, 1994).

⁵ The Assessment Appeals Commission has recognized that “the assessor must rely on information supplied by the taxpayer regarding changes of address,” *Charles R. Coats* (Final Decision & Order, Davidson County, Tax Year 2001, issued August 13, 2003), but the taxpayer’s obligation to maintain current address information at the assessor’s office must be balanced “against the assessor’s responsibility to respond appropriately when an assessment change notice is returned undelivered,” *David D. Alfery* (Final Decision & Order, Davidson County, Tax Year 2001, issued August 13, 2003). See also *Teransky LLC* (Initial Decision & Order, Shelby County, Tax Year 2014, issued July 17, 2015); *Harwell Farrar* (Initial Decision & Order, Davidson County, Tax Year 2013, issued June 11, 2014); *Robert & Constance Lister* (Initial Decision & Order, Davidson County, Tax Year 2013, issued March 31, 2014); *Apollo Investment Properties* (Initial Decision & Order, Knox County, Tax Year 2013, issued February 11, 2014).

critical correspondence - by the taxpayer prior to receipt of the tax bill payment request from the taxpayer's landlord, the administrative judge finds the taxpayer's delayed receipt of the assessment change notice did not constitute "reasonable cause" within the meaning of Tenn. Code Ann. § 67-5-1412(e).

That said, the State Board has shown great sensitivity where taxpayers failed to properly appeal due to having been intentionally or unintentionally misled by the taxing authorities.⁶ In this case, the taxpayer was directly involved in what the taxpayer reasonably perceived to be ongoing discussions with the assessor's office regarding a potential informal resolution of a dispute regarding the assessment throughout the relevant time period. The taxpayer's principals testified that due to ongoing discussions with the assessor's office, they were under the impression that the tax year 2014 assessment was still being considered until well after the County Board had adjourned.

Overall, the administrative judge finds the communications from the assessor's office palpably misleading⁷ and finds the taxpayer's principals' unrebutted testimony that they were

⁶ *Hickory Hollow Mall, LP & Hickory Hollow/SB, LLC* (Final Decision & Order, Davidson County, Tax Year 2007, issued May 14, 2015). See also *Memphis Mall Holdings, LLC* (Final Decision & Order, Shelby County, Tax Year 2003, issued December 22, 2004); *Harold B. & Alice Hurd* (Initial Decision & Order, Rutherford County, Tax Year 2014, issued January 21, 2015); *Terrie Moten* (Initial Decision & Order, Shelby County, Tax Years 2013-2014, issued September 17, 2014); *Hazel Fisher* (Initial Decision & Order, Davidson County, Tax Years 2013-2014, issued July 17, 2014); *Walter Eugene McDaniel & Sylvia Winters* (Initial Decision & Order, Knox County, Tax Year 2013, issued January 27, 2014).

⁷ The most egregious example of misleading communication from the assessor's office in this respect was the following June 5, 2014 email from a then-employee of the assessor's office:

Thanks a lot Nicole. We have been stupid busy and I have inherited incomplete Legacy files on a "blank" pot of properties. It now seems clear to me that I may have wasted some of our time. UT Batelle "owns" the dirt visa a vis a QUIT CLAIM deed. The buildings are owned by UT Batelle and some are exempt. They are what they are, even though one doc I have says that one bldg has a max indebtedness of \$41 M ????


I don't want UT Batelle to have to pay a Tax Rep, MAI or Tax Atty money they should not have to pay.

Historic Cost are fairly concrete (pardon the pun) and may be trended. Leases are fairly irrelevant at this juncture.

misled credible. Because of the ongoing direct communications between the assessor's office and the taxpayer's principals, the administrative judge finds that the taxpayer's principals would have quite reasonably assumed that the assessment was still under consideration by the assessor's office *even if the assessment change notice had been timely forwarded by the taxpayer's landlord to the taxpayer.* Therefore, the administrative judge rejects the assessor's office's position that the taxpayer failed to appeal to the County Board primarily due to neglect on the part(s) of the taxpayer and/or the taxpayer's landlord. The administrative judge finds that the misleading communications from the assessor's office constituted the primary and direct cause of the taxpayer's failure to appeal to the County Board. Accordingly, the administrative judge finds "reasonable cause" within the meaning of Tenn. Code Ann. § 67-5-1412(e).

A hearing on the tax year 2014 value of the subject property as of the January 1, 2014 assessment date will be scheduled in the near future. ***Because tax year 2015 is a reappraisal year in Roane County, the taxpayer must timely appeal to the Roane County Board of Equalization and again to the State Board of Equalization if the taxpayer intends to challenge the tax year 2015 reappraisal.***

ENTERED this 15 day of September 2015.



Mark Aaron, Administrative Judge
Tennessee Department of State
Administrative Procedures Division
William R. Snodgrass, TN Tower
312 Rosa L. Parks Avenue, 8th Floor
Nashville, Tennessee 37243

they help in an income approach as there are THREE APPROACHES TO VALUE IN REAL ESTATE APPRAISAL. Two out of three ain't bad.
One is okay for courts.
....

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing Order has been mailed or otherwise transmitted to:

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This the 15th day of September 2015.



Janice Kizer
Tennessee Department of State
Administrative Procedures Division